

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

SHARON L. BLOUNT,  
Plaintiff-Appellant.

v.

No. 99-1391

DONNA E. SHALALA, Secretary,  
Department of Health and Human  
Services,  
Defendant-Appellee.

Appeal from the United States District Court  
for the District of Maryland, at Greenbelt.  
Peter J. Messitte, District Judge.  
(CA-98-874-PJM)

Submitted: October 8, 1999

Decided: October 28, 1999

Before LUTTIG and MOTZ, Circuit Judges,  
and BUTZNER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Karl W. Carter, Jr., Washington, D.C., for Appellant. Lynne A. Battaglia, United States Attorney, Roann Nichols, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

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## OPINION

### PER CURIAM:

Sharon L. Blount appeals the district court's order dismissing her employment discrimination action under Fed. R. Civ. P. 12(b)(6). Blount admitted that she failed to file her administrative complaint within fifteen days of receiving notice of her right to do so. See 29 C.F.R. § 1614.106(b) (1999). On appeal from the district court's order, Blount argues that the court erred in finding that the Appellee did not waive her right to assert her untimely filing as a defense and that her proffered reasons to excuse her late filing were insufficient. We have reviewed the briefs and the parties' submissions and find no reversible error.

We find that the Appellee did not waive her right to assert a timeliness defense by failing to act upon Blount's complaint within 180 days or by accepting the complaint and investigating her claims. See Bowden v. United States, 106 F.3d 433, 438 (D.C. Cir. 1997); Rowe v. Sullivan, 967 F.2d 186, 191 (5th Cir. 1992); Boyd v. United States Postal Serv., 752 F.2d 410, 414 (9th Cir. 1985). We further find that Blount presented insufficient evidence to excuse her untimely filing based upon equitable considerations. See Irwin v. Department of Veterans Affairs, 498 U.S. 89, 95-96 (1990); Zografov v. V.A. Med. Ctr., 779 F.2d 967, 969 (4th Cir. 1985).

Accordingly, we affirm the district court's order granting Appellee's motion to dismiss. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

### AFFIRMED